

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, March 3, 2003

Division One

A100262 -- The People v. Julian Dre Keys.

There was no error in the proceedings. There are no issues requiring further briefing. The judgment and sentence are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A099273 -- In re Brooke G. et al., Persons Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Steven G.

The order of the juvenile court terminating appellant's parental rights to Brooke and Pete is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A098455, A098457, A096588 -- Planned Parenthood Golden Gate v. Rossi Foti, et al.

The June 26 order denying the motions to strike is affirmed but the summary judgment in favor of PPGG is reversed. Foti shall recover his costs on appeal; the Garibaldis and PPGG shall bear their own costs. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Monday, March 3, 2003 (continued)

Division Three

A098912 -- In re Athena M., a Person Coming Under the Juvenile Court Law. Social Services Agency v. David M.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Division Four

A100110 -- Insurance Commissioner Golden Eagle Insurance Company v. Precision Builders, Inc.

By the Court: Good cause appearing, respondent's motion to dismiss the appeal is granted. Kay, P.J.

A097769 -- In re Kerry N., a Person Coming Under the Juvenile Court Law. The People v. Kerry N.

The dispositional order is reversed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A099256 -- In re Ronald P., III, a Person Coming Under the Juvenile Court Law. Social Services Agency v. Ronald P.

The order terminating parental rights is reversed and the matter is remanded for proceedings on selection and implementation of a new permanent plan. In view of the stipulation for reversal, the remittitur shall issue forthwith. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Tuesday, March 4, 2003

Division One

A099527 -- The People v. Carlos D. Gabarrete.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A098173 -- The People v. Michael Kent Maxwell.

The judgment is modified to reduce the restitution fines and suspended parole revocation fines in case Nos. FCR 190614 and FCR 192876 from \$600 to \$200. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A099028 -- In re Damon R., et al., Persons Coming Under the Juvenile Court Law. Del Norte County Department of Health & Social Services v. Angela R.

The order is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

A097767 -- In re Brad G., a Person Coming Under the Juvenile Court Law. Del Norte County Department of Health and Social Services v. Michael G.

The January 31 order is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A100654 -- Bank of the Orient v. William D. McCann, et al.

By the Court: It appearing that the appellant is in default pursuant to California Rules of Court, Rule 1(f) the appeal filed 11-19-02, is dismissed. Kline, P.J.

Tuesday, March 4, 2003 (continued)

A096567 -- The People v. James Anthony Freeman.

A098902 -- In re James Anthony Freeman, on Habeas Corpus.

In case No. SCR30586, the petition for a writ of habeas corpus is denied. However, the court shall vacate both pleas of no contest to Count IV and Count V if appellant elects to do so by means of a petition for writ of error coram nobis filed within 30 days of the issuance of the remittitur in this case. If no petition is filed, the court shall reinstate the original judgment. In case No. SCR 29965, the trial court is ordered to modify the abstract of judgment to reduce the one-year term imposed for the arming enhancement to four months. In all other respects, the judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A099161 -- The People v. Harold Donald Hareland, Jr.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A095612 -- Meta-Care, Inc. v. Director of the Department of Health Services.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Four

A098918 -- The People v. Christopher Mason Jackson.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Wednesday, March 5, 2003

Division Two

A097985 -- The People v. Foster Allen, Jr.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J.
(Not for Publication.)

Division Five

A097958 -- John F. Jenkel, as Co trustee, etc., et al. v. John Jenkel.

The order imposing sanctions is reversed. Costs are awarded to appellant.
Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

A099245 -- The People v. Tariq Bilal Mustafaa.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

Thursday, March 6, 2003

Division Two

A097107 -- California Advocates for Nursing Home Reform et al. v. Diana M. Bonta.

The Court: Order Modifying Opinion. It is ordered that the opinion filed herein on February 24, 2003, be modified as follows: (See order.) There is no change in the judgment. Kline, P.J. (Certified for Publication.)

Division Four

A099472 -- Amarech Legesse v. Alta Bates Medical Center.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A096550 -- Dennis T. Mangano v. Arthur Anderson LLP.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A095839 -- The People v. James Anthony Diesso.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, March 07, 2003

Division Two

A098174 -- The People v. Gregory Odell Shelton.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Five

A096707 -- The People v. Yolanda M. Ponce.

The judgment of conviction and sentence are affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A098229 -- Susan Timney et al. v. Steve Line et al.

The order of the trial court enforcing the settlement as to the forfeiture of appellants' deposit is reversed, and the matter is remanded to the trial court with instructions to issue a new judgment, severing and invalidating the deposit forfeiture provision, and ordering respondents to return appellants' deposit. Appellants shall recover costs on appeal. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Certified for Publication.)

A099580 -- In re Leanne U., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Joseph U.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A095474 -- Elysa J. Yanowitz v. L'Oreal USA, Inc.

The judgment is reversed on Yanowitz's FEHA claim for retaliation, and this case is remanded for further proceedings on that claim. In all other respects, the judgment is affirmed. Yanowitz shall recover her costs on appeal. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Certified for Partial Publication.)

Monday, March 10, 2003

Division One

A095311 -- The People v. Jeffrey Allen Galbraith et al.

A099747 -- In re Alvin Richardson, on Habeas Corpus.

The judgment is affirmed. The habeas corpus petition is denied without prejudice to the filing of an appropriate petition in the superior court. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A100424 -- The People v. Duong A. Luu.

There was no error in the proceedings. There are no issues requiring further briefing. The judgment and sentence are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A094550, A094919 -- Redevelopment Agency of the City of Oakland v. Edward L. Martin et al.

The judgment and order appealed from are affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A098361 -- The People v. Patrick McClymont.

We affirm the judgment. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A096486 -- In re Justin S., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services v. Karen S.

The juvenile court's orders are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A098404 -- The People v. David Hillary Sutton.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Monday, March 10, 2003 (continued)

Division Two

A098892 -- Mark Palmer Barnes v. Judith Stadler et al.

We reverse the portion of the order denying Stadler's motion to strike the third cause of action for intentional infliction of emotional distress under the anti-SLAPP law and direct the trial court on remand to enter a new order granting the motion and awarding reasonable costs and attorney fees to Stadler for both the motion and the appeal, under section 425.16, subdivision (c). Stadler is to recover her costs on appeal. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A097107 -- California Advocates For Nursing Home Reform et al. v. Diana M. Bonta.

The Court: Order Modifying Opinion and Vacating Prior Modification. It is ordered that the opinion filed on February 24, 2003, be modified as follows: (See order.) It is further ordered that the modification order filed March 6, 2003, be vacated. There is no change in the judgment. Kline, P.J. (Certified for Publication.)

A096564 -- The People v. Isidro Ramos Gali.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A100882 -- In re Jaylen J., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Markesha J.

By the Court: Appellant having failed to file a brief after notice given under Rule 17(a)(1) of the California rules of Court, the appeal is dismissed. Kline, P.J.

A096819 -- The People v. George Francis Lowe.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Monday, March 10, 2003 (continued)

A098800 -- National Loan Investors, LP v. NC Venture I, L.P.

By the Court: Appellant having filed a request for dismissal in this court, the appeal is dismissed. Kline, P.J.

Division Five

A095953 -- The People v. Angel Arias.

A098766 -- The People v. Angel Arias.

Order Granting Rehearing and Consolidating Cases. Good cause appearing, on the court's own motion, the court grants rehearing in A095953, and the case is ordered consolidated with appellant's related appeal in A098766. We further direct the parties to file letter briefs, not to exceed five pages in length, on or before March 25, 2003, addressing the following question: (See order.) Stevens, Acting P.J.

A098353 -- The People v. Marc Henneberry.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A095974 -- The People v. Robert Lee Kelly.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Tuesday, March 11, 2003

Division Two

A097837 -- In re Brian L., a Person Coming Under the Juvenile Court Law. The People v. Brian L.

The order finding the allegation of a violation of section 243.4, subdivision (a) is true is modified to reflect a violation of section 243.4, subdivision (e), and we remand for resentencing. The judgment is otherwise affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A096269 -- Hilda Namm et al. v. Fire Insurance Exchange et al.

The judgment appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

A099336 -- Cyrus S. Safai v. The Permanente Medical Group, Inc.

The order of dismissal is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A098497 -- The People v. Bulmaro Ramirez.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A098309 -- Altoris Pervoe v. T & M Market et al.

The order denying the motion to set aside the dismissal is affirmed. Respondents shall recover their costs on appeal. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, March 12, 2003

Division One

**A101496 -- May C. v. The Superior Court of Contra Costa County;
Contra Costa County Department of Social Services et al., R.P.I.**

The challenged orders are supported by substantial evidence. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is set for March 27, 2003. Therefore, our decision is final in this court immediately. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division One

A099661 -- Cable Car Advertisers, Inc. v. James Fang.

We affirm the court's order setting aside the default. Fang is entitled to costs on appeal. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A096825 -- The People v. Bradford Gary Burbine.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

A098421 -- In re Joel P., a Person Coming Under the Juvenile Court Law. The People v. Joel P.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Wednesday, March 12, 2003 (continued)

Division Three

A101595 -- Harry Boress v. Clerk of the Superior Court of Contra Costa, et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Wednesday, March 12, 2003 (continued)

Division Five

A100345, A101238, and A101546 -- Gregory Blaine v. San Francisco Rent Stabilization and Arbitration Board; Douglas Perlstadt, et al., R.P.I.

By the Court: The stipulated motion, filed herein on March 6, 2003, to consolidate the above-entitled appeals is granted in part. The appeals are consolidated for purposes of briefing, oral argument, and decision. Appellants' opening briefs shall be served and filed on or before thirty (30) days after the filing of the records on appeal in A101238 and A101546. Respondents' brief shall be served and filed thirty (30) days after the opening briefs. All appellants' reply briefs shall be served and filed on or before twenty (20) days after the consolidated respondent's brief. Simons, Acting P.J.

A098586 -- The People v. Lora Ann Chadwick.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A094287 -- The People v. Tyrone Damion Jones.

Consistent with our discussion in part V of the opinion, the judgment is reversed and remanded for resentencing only. In all other respects, the judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A098309 -- Altoris Pervoe v. T & M Market et al.

The Court: Order Modifying Opinion to Correct Clerical Error. The opinion filed March 11, 2003, is modified as follows: (See order.) The modification does not affect the judgment. Jones, P.J. (Not for Publication.)

Thursday, March 13, 2003

Division One

A098283 -- The People v. Angee Burrell.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A100313 -- Frederick W. Herbert et al. v. The Travelers Indemnity Company of Illinois.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A100543 -- The People v. Jason Jeremiah Jacobs.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A097538 -- The People v. Lopez Bible.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A095533 -- The People v. Gerald Jones.

We affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A099822 -- James Singh v. MacArthur Metro, et al.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

Thursday, March 13, 2003 (continued)

Division Three

A095894 -- Jacque Kidd v. The Greenspan Company.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Division Four

A099666 -- In re Jamikelle S., a Person Coming Under the Juvenile Court Law. The People v. Jamikelle S.

The orders declaring that the minor be continued as a ward of the court and committing him to the Youth Authority are affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A098656 -- The People v. Sheila Ann Dwyer.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A100040 -- The People v. Karl Joseph Langridge.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A097072, A097387, A097454 -- Shea Homes Limited Partnership, et al. v. County of Alameda, et al. Trafalgar, Inc. v. County of Alameda, et al.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

A096965 -- Suzanne L. Decker, as Trustee v. Yorkton Securities, Inc., et al.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Certified for Publication.)

Friday, March 14, 2003

Division One

A098978 -- In re Jamie P., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Gary P., et al.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A100214 -- The People v. Jeffrey Thomas.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Three

A092144 -- The People v. Hector Fernando Guzman.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A091072 -- The People v. Robert Hickerson et al.

In all other respects the judgments are affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A095870 -- The People v. Timothy Wyrick.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Five

A097839 -- Diane E. Allen v. City of Petaluma et al.; Craig Walker, et al., R.P.I.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, March 14, 2003 (continued)

A099559 -- Mark L. Cederborg v. Henry S. Totah.

The order is reversed. Each side is to bear its own costs of appeal.
Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A100645 -- In re Brent E., a Person Coming Under the Juvenile Court Law. The People v. Brent E.

The order adjudicating appellant a continued ward of the court pursuant to Welfare and Institutions Code section 602 and committing him to CYA is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Monday, March 17, 2003

Division One

A098650 -- The People v. Dennis Pietromonaco.

The order of the trial court is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

A099898 -- In re Marquis I., a Person Coming Under the Juvenile Court Law. The People v. Marquis I.

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing him on probation in the custody of his grandmother is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A096763 -- Richelle L. v. Roman Catholic Archbishop of San Francisco et al.

The Court: Order Modifying Opinion. It is ordered that the opinion filed herein on February 14, 2003, be modified as follows: (See order.) There is no change in the judgment. Kline, P.J. (Certified for Publication.)

Division Three

A097675 -- The People v. Michael Anthony Dodele.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Monday March 17, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Corrigan, J., Pollak, and C. Turner, Deputy Clerk.

A098784 The People,

v.

Jose Jesus Suarez,

Cause called and argued by Eric Leberman, counsel for appellant via tele-conference, and Martin Kaye, counsel for respondent. Cause ordered submitted.

Justice Parrilli took her place on the bench.

A096922 The People,

v.

Gaylin Lynn Burleson,

Cause called and argued by Neil Jacob Rosenbaum, counsel for appellant, and Catherine McBrien, counsel for respondent. Cause ordered submitted. Justice Pollak left the bench.

A094270 The People,

v.

Santos Flores,

Cause called and argued by Kozik Katarzyna, counsel for appellant, and Morris Lenk, counsel for respondent. Cause ordered submitted.

A097229 Kelly M. Brosnan,

v.

Jacobson Gillin, et al.,

Cause called and argued by Bradley Mark Kass, counsel for appellant, and James C. Kreig, counsel for respondent. Cause ordered submitted.

A097581 Juanita Smith Papillon,
v.
Rhonda Smith, et al.,
Cause called and argued by Janine S. Simerly, counsel for appellant, and
John N. Gulick, counsel for respondent. Cause ordered submitted.

A098859 The People,
v.
Dain Roy Birkley,
Cause called and argued by Carol Strickman, counsel for appellant, and John
Vance arguing via-tele-conference, counsel for respondent. Cause ordered
submitted.

court recessed until 1:30 p.m.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Monday, March 17, 2003

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan, J., Parrilli J., Pollak, J. and I. Calanoc, Deputy Clerk.

A098011 The People,
v.
Debi Lynn Zuver
Cause called and argued by Herbert Blanck, counsel for appellant, and Morris Lenk, counsel for respondent. Cause ordered submitted. Parrilli, J. left the bench after this case.

A099162 The People,
v.
David Kenneth Goodman.
McGuiness, P.J. approached the bench. Cause called and argued by Michael Marowitz, counsel for appellant, and Michele Swanson, counsel for respondent. Cause ordered submitted.

A098019 Mia White,
v.
Sylvia Woods.
Cause called and argued by appellant pro per Mia White, and Jean Greenbaum, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Monday, March 17, 2003 (continued)

Division Five

A099218 -- James Willie Lankford, Jr. v. LaVette Deatra Lankford et al.

The judgment is reversed with directions to the trial court to modify the judgment in accordance with this opinion. In all other respects, the judgment is affirmed. The parties shall bear their own costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A098631 -- The People v. Wei Tao Lu.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A099318 -- Howard S. Wright Construction Co. v. The Superior Court of Alameda County; BBIC Investors, LLC, R.P.I.

The Court: The opinion filed on February 14, 2003, is ordered modified as follows: (See order.) The petition for rehearing is denied. This order does not effect a change in the judgment. Jones, P.J. (Not for Publication.)

Tuesday, March 18, 2003

Division One

A099827 -- The People v. Brian Wayne Tarver.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A097089 -- The People v. Alexander Brand.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A091017 -- East Bay Municipal Utility District v. FMC Corporation, et al.

By the Court: It is ordered that the opinion filed herein on February 8, 2003, be modified as follows: (See order.) The petition for rehearing and request for publication are denied. Kline, P.J. (Not for Publication.)

A100934 -- William O. Gammill v. Lester Astray, et al.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

A099311 -- Conservatorship of the Estate of Ali R. Khashabi.

The appeal is dismissed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, March 18, 2003 (continued)

Division Three

A093759 -- The People v. Donald Barker.

The judgment is affirmed. McGuinness, P.J. I Concur: Corrigan, J., (See dissenting opinion by Pollak, J.) (Certified for Publication.)

A091076 -- The People v. Gaylin Burleson.

The judgment is modified in that the restitution fines imposed pursuant to Penal Code sections 1202.4, subdivision (b) and 1202.45 are reduced to \$10,000. In all other respects, the judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

A098466 -- The People v. Jason F. Castle.

The judgment is affirmed. Corrigan, Acting P.J. I Concur: Parrilli, J. (See dissenting opinion by Pollak, J.) (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, March 18, 2003

The Court convened at 9:30 a.m. at its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A096725 Kenneth Hirsch
A096726 v.
A096727 Bank of America, N.A.
A096728 Causes called. William B. Hirsch argued on behalf of appellant Hirsch. William Stern argued for respondents Bank of America et al. Causes submitted.

A098585 People
 v.
 Brandon Groves
Cause called. Geri Green argued on behalf of appellant Groves. Deputy Attorney General Lisa Ashley Ott argued for respondent. Cause submitted.

At this point the Court reconstitutes itself from Kay, P.J., Reardon, J. and Sepulveda, J. to Kay, P.J., Reardon, J. and Rivera, J.

A097630 Ampex Corporation
 v.
 Joseph Bettini
Cause called. Mark Goldowitz argued on behalf of appellant Bettini. Michael D. Prough argued for respondent. Cause submitted.

At this point the Court reconstitutes itself from Kay, P.J., Reardon, J. and Rivera, J. to Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A101216 Michael P.
 v.
 San Francisco Superior Court
Cause called. Mark Murray argued on behalf of petitioner Michael P. Ellen Foreman argued for respondent. Cause submitted.

The Court adjourned at 10:57 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, March 18, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

- A099077 Charles Rudy et al.
v.
Catalin V. Dulfu
Cause called. Kenneth Morris argued for appellant Dulfu. Leonard A. Rifkin argued for respondents. Cause submitted.
- A097596 In re Travis W., a minor.
People
v.
Travis W.
Cause called. A. Charles Dell'Ario argued for appellant Travis W. Larry Sullivan argued for respondent. Cause submitted.
- A092551 Bernie Chavers et al.
v.
Gatke Corporation
Cause called. Gilbert Purcell argued for appellants Chavers et al. Frederick D. Baker argued for respondent. Cause submitted.
- A093413 Augusta Ferris et al.
v.
Gatke Corporation
Cause called. Gilbert Purcell argued for appellants Ferris et al. Frederick D. Baker argued for respondent. Cause submitted.
- A096663 H. Roger Lawler
v.
Justin M. Jacobs, Jr. et al.
Cause called. Terence Young argued for appellants Jacobs et al. Susan H. Handelman argued for respondent. Cause submitted.

The Court adjourned at 3:28 p.m.

Tuesday, March 18, 2003 (continued)

Division Five

A099355 -- The People v. Gary Dodson.

The order extending appellant's commitment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A098501 -- In re Cornell M., a Person Coming Under the Juvenile Court Law. The People v. Cornell M.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, March 19, 2003

Division One

A099339 -- The People v. Trent Cornelius Jeffrey; Ranger Insurance Company, Inc., et al., R.P.I.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, March 19, 2003

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that the panel for the first case would be Justices Haerle, Lambden and Ruvolo. The panel for the next two cases would be himself and Justices Haerle and Ruvolo and that the panel for the last two cases would be himself and Justices Lambden and Ruvolo.

- A101096 Kimberly H.
 v.
 Superior Court
 Social Services Agency, et al.
 Cause called and argued by Chantal Sampogna, counsel for petitioner and Anthony Scarr, Deputy County Counsel, counsel for real party in interest. Cause ordered submitted.
- A095337 The People
 v.
 Richard Hodges
 Cause called and argued by Richard Such, counsel for appellant and Ann Wathen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A098511 Sam Ferris
 v.
 Employment Development Department
 Cause called and argued by appellant Sam Ferris in propria persona and Randall Borcharding, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A095799 The People
 v.
 Saul Hernandez
Cause called and argued by John McCabe, counsel for appellant and
Michele J. Swanson, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

A098615 Siofra Byrne
 v.
 Carl Pompei, et al.
Cause called and argued by Eric M. Steinle, counsel for appellant and
Joseph Reisinger, counsel for respondents. Cause ordered submitted.

Court recessed until Thursday, March 20, 2003 at 9:30 a.m.

Wednesday, March 19, 2003 (continued)

Division Three

A096922 -- The People v. Gaylin Burleson.

The order imposing restitution pursuant to section 1202.4 is affirmed.
Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A097595 -- In re Lisa T., a Person Coming Under the Juvenile Court Law. The People v. Lisa T.

The restitution order is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A086991 -- Patricia Henley v. Philip Morris Inc.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A098823 -- Janis M. Lococo v. Lawrence C. White.

The purported appeals are dismissed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A099080 -- In re Zina M., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children & Family Services v. Truman M., et al.

The order terminating parental rights is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, March 19, 2003 (continued)

Division Five

A098919 -- The People v. Kenneth Wayne Nelson.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A098726 -- The People v. Benjamin Diaz Valenzuela.

The judgment of conviction is reversed. The matter is remanded to the trial court with instructions to grant the motion to suppress, and to allow appellant to withdraw his plea of nolo contendere. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, March 20, 2003

Division Two

A098405 -- The People v. Ronnie Earl Howard.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J.
(Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Thursday, March 20, 2003

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Haerle, Acting P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A093436 James Guigli

v.

Lawrence Berkeley National Laboratory, et al.

Cause called and argued by Norman Pine, counsel for appellant and John Beers, counsel for respondents. Submission deferred 3 days to allow appellant an opportunity to file a supplemental letter brief, whereupon cause to stand submitted.

A098907 White McMahon Potter

v.

Dianne Schoenrock

Cause called and argued by Robert White, counsel for appellant and Lewis Warren, counsel for respondent. Cause ordered submitted.

A097086 Victoria Reisinger, et al.

v.

Terra Linda Development Company, LTD, et al.

Cause called and argued (telephonically) by Joseph Reisinger, counsel for appellant and Priscilla Slocum, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Thursday, March 20, 2003 (continued)

Division Three

A098859 -- The People v. Dain Roy Birkley.

Birkley's sentence is vacated and the case is remanded for a new sentencing hearing before a different judge. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A100367 -- The People v. Steven Paul Medina.

The order of restitution in the amount of \$19,834.77 is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A098011 -- The People v. Debi Lynn Zuver.

Judgment affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Division Four

A099436 -- In re Cody C., a Person Coming Under the Juvenile Court Law. The People v. Cody C.

The orders of the juvenile court, declaring the minor to be continued as a ward of the court under certain conditions including the payment of restitution, including restitution to victim Kent F. and restitution for lost wages to Ms. S., are affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A098585 -- The People v. Brandon E. Groves.

The judgment, including the sentence, is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Thursday, March 20, 2003 (continued)

A101216 -- Michael P. v. The Superior Court of the City and County of San Francisco; San Francisco Department of Human Services, R.P.I.

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (1)(1); Cal. Rules of Court, rule 39.1B(o); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) As the section 366.26 hearing is set for April 30, 2003, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Thursday, March 20, 2003 (continued)

Division Five

A098960 -- Stephanie Huyssoon v. Pet Food Express, et al.

The order denying Pet Food Express's petition is affirmed. Gemello, J.
We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A099817 -- The People v. John H. Mack.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.
(Not for Publication.)

Friday, March 21, 2003

Division Three

A096547 -- The People v. Javier Gabriel Garcia.

A100405 -- In re Javier Garcia on Habeas Corpus.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A099162 -- The People v. David Kenneth Goodman.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A098702 -- The People v. Loncell Hill, Jr.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A096663 -- H. Roger Lawler v. Justin M. Jacobs, Jr., et al.

The order denying appellants their attorney fees is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A096539 -- The People v. Robert Wayne Williams.

The judgment of conviction is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A098509 -- The People v. Harold R. Cook.

The judgment is reversed. The case is remanded for resentencing. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Friday, March 21, 2003 (continued)

A099752 -- In re Jacoby M., a Person Coming Under the Juvenile Court Law. The People v. Jacoby M.

The orders of the juvenile court are affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A099941 -- In re Katelynn M., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Kelly M.

The orders of the juvenile court are affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A098864 -- The People v. Michael Martin.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, March 24, 2003

Division One

A098102 -- The People v. Pedro Navarro Gutierrez.

By the Court: The petition for rehearing is denied. Margulies, Acting P.J.

Division Two

A098455, A098457, A096588 -- Planned Parenthood Golden Gate v. Rossi Foti, et al.

By the Court: The written opinion which was filed on March 3, 2003, has now been certified for partial publication pursuant to rules 976(b) and 976.1 of the California Rules of Court, and it is therefore ordered that it be published in the Official Reports with the exception of parts III A, 3, and III B. Kline, P.J.

Division Four

A100810 -- The People v. Christopher Mayfield.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Tuesday, March 25, 2003

Division Two

A092548, A092833 -- Loretta J. Hale v. Provident Life and Accident Insurance Co. et al.

Prejudicial instructional error requires reversal and retrial of Hale's cause of action in breach of the covenant of good faith and fair dealing. Similarly the court erred in granting Provident a nonsuit/directed verdict on the punitive damages claim. The judgment in favor of Provident on the cause of action for breach of the covenant of good faith and fair dealing is reversed, as is the nonsuit/directed verdict on punitive damages. In other respects the judgment and post-judgment orders of the trial court are affirmed. The matter is remanded to the trial court for further proceedings, consistent with this opinion. Hale is awarded her costs on appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A096740 -- Steve Wills Trucking et al. v. Ellen Taylor.

The judgment is affirmed. Costs and reasonable attorney fees on appeal are awarded to respondent. The matter is hereby remanded to the trial court to determine the amounts of each to be awarded. (*Dowling v. Zimmerman* (2001) 85 Cal.App.4th 1400, 1426; *Dove Audio, Inc. v. Rosenfeld, Meyer & Susman* (1996) 47 Cal.App.4th 777, 785.) Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A098769 -- Lyle Childers et al. v. Tutor-Saliba Corporation.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A094270 -- The People v. Santos Flores.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A098019 -- Mia L. Morgan White v. Sylvia Woods.

The judgment is affirmed. Defendant shall recover her costs on appeal.
Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Tuesday, March 25, 2003 (continued)

Division Four

A099077 -- Charles D. Rudy et al. v. Catalin V. Dulfu.

The injunction and the attorney fee order are affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A097596 -- In re Travis W., a Person Coming Under the Juvenile Court Law. The People v. Travis W.

The order of commitment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Certified for Publication.)

Division Five

A099901 -- Conservatorship of the Person and Estate of Peter B. Mendocino County Public Guardian v. Peter B.

The orders of the trial court are affirmed, with the exception of the rulings on the matter of special disabilities, which are vacated and remanded to the trial court for further proceedings consistent with the views expressed herein. Each party shall bear its own costs on appeal. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A100312 -- Quail Point Homeowners Association v. City of San Bruno, et al.

The order denying the petition for writ of mandate is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Wednesday, March 26, 2003

Division One

A099753 -- In re Cali S., a Person Coming Under the Juvenile Court Law. San Francisco County Department of Human Services v. Shaun S.

The order denying reunification services to Shaun S. is affirmed.
Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A098941 -- The People v. Sean Patrick Doyle.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A097229 -- Kelly M. Brosnan v. Gillin, Jacobson et al.

The judgment is affirmed. Gillin shall recover its costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A100305 -- The People v. Joseph Robert Desylva.

We have conducted such a review and affirm. There are no meritorious issues to be argued. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A099079 -- In re James H. et al., Persons Coming Under the Juvenile Court Law. Social Services Agency v. Monica D.

A098500 -- In re Asia L., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Robert L.

The Court: Order Certifying Opinion For Publication. The opinion in the above-entitled matter filed on February 24, 2003, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. McGuinness, P.J. (Certified for Publication.)

Wednesday, March 26, 2003 (continued)

A097581 -- In re the Estate of Carl J. Smith, Jr., Deceased. Juanita Smith Papillon v. Rhonda Smith et al.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A098784 -- The People v. Jose Jesus Suarez.

The case is remanded for the limited purpose of awarding defendant appropriate credits for time previously served as a condition of probation. In all other respects the judgment and sentence are affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A097630 -- Ampex Corporation v. Joseph Bettini.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A096129 -- The People v. Eric Neil Veracruz.

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A098468 -- The People v. Michael Brent Billings.

The judgment is reversed. On remand, Billings may withdraw his plea to counts I and IV. If he chooses to do so, the prosecution shall be afforded the opportunity to reinstate counts II, III, and V. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A097315 -- Kenneth L. Kral et al. v. John W. English et al.

The judgment is affirmed. Costs on appeal shall be awarded to respondent. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, March 26, 2003 (continued)

A099171 -- The People v. Gregory Scott Myers.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J.
(Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

March 26, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J., Simons, J., Gemello J., and Mary P. Quilez, Deputy Clerk.

- A092932 The People
 v.
 Charles Lee Craft
Cause called and argued by John Francis McCabe, counsel for appellant, and by Catherine A. Rivlin, Deputy Attorney General, counsel for respondents. Cause ordered submitted.
- A099309 Barbara San Martin
 v.
 Antioch Schools Federal Credit Union
Cause called and argued by Allan DeFraga, counsel for appellant, and by Kathy Mildred Banke, counsel for respondent. Cause ordered submitted.
- A099165 The People,
 v.
 Michael Edward Jansen
Cause called and argued by Guy Anthony Campisano, counsel for appellant, and by Allan Yannow, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A097363 The People
 v.
 Rickersian Lakente Simon
Cause called and argued by Richard Such, counsel for appellant, and by Linda M. Murphy, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

- A099453 Alliance for a Better Downtown Millbrae, et al.
v.
Cheryl Mitchell Wade, as City Clerk, City of Millbrae
Cause called and argued by Michael A. Duncheon, Counsel for appellants, and by Dennis Zell, counsel for respondent. Cause ordered submitted.
- A100194 Sierra Club, et al.
v.
California Coastal Commission
City of Los Angeles, et al.
Cause called and argued by Frank P. Angel, counsel for appellant, by Hayley Elizabeth Peterson, counsel for respondent and by Robert Dale Crockett, counsel for real parties in interest. Cause ordered submitted.
- A097616 The People
v.
Quincy Culpepper
Cause called and argued by James Kyle Gee, counsel for appellant, and by Gloria Folger DeHart, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court adjourned at 12:30 p.m.

Thursday, March 27, 2003

Division One

A101551 -- Will Block, et al. v. Gail Valentine.

By the Court: The filing of respondent's reply brief and appellants' objections thereto are granted. Respondent's motion to dismiss the appeal is granted and the appeal is dismissed. The sanctions requests from both parties are denied. Marchiano, P.J.

A098431 -- In re Duvonte L., a Person Coming Under the Juvenile Court Law. The People v. Duvonte L.

The order declaring appellant to be a ward of the court is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A096486 -- In re Justin S., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Karen S.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A098834 -- In re Anthony E., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agencies v. Anthony Ray E.

The order is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A097333 -- The People v. Harold Fye.

The matter is remanded to the trial court with instructions to either (1) conform the abstract of judgment to the orders the court made on December 14, 2001, as reflected in the reporter's transcript of that day's hearing (2) convene another hearing to establish what the correct restitutionary amounts are and then record them consistently with that determination. Otherwise, the judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Thursday, March 27, 2003 (continued)

A096946 & A097317 -- Belinda Von Tonder, et al. v. Chevron Corporation, et al. Chevron Fire Cases, Coordination Proceeding J.C.C.P. 4103.

By the Court: The petition for rehearing is granted. The above-entitled cases are ordered on calendar before Division Two on Wednesday, April 16, 2003 at 9:30 a.m. Kline, P.J.

Division Three

A097972 -- In re the Marriage of Micheline and Eddy Benoit.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

A100256 -- Allen F. Ehle v. Beyers, Costin & Case.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A100298 -- In re K.M., a Person Coming Under the Juvenile Court Law. The People v. K.M.

The dispositional order of September 18, 2002, is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A097339 -- The People v. Pablo Nieto Torres.

The judgment is affirmed. Pollak, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Thursday March 27, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan, J., Parrilli, J., Pollak, J., and C. Turner, Deputy Clerk.

- A089623 The People,
 v.
 Clemeth Ray Castille, et al.,
 Cause called and argued by Stephen Michael Greenberg, counsel for
 appellant Clemeth Ray Castille and Christina Von Saal counsel for
 respondent.. Cause ordered submitted.
- A098476 Donald C. Marro, et al
 v.
 William Ziegler, et al.,
 Cause called and argued by Donald J. Putterman, counsel for appellant
 Lillian S. Clancy and Douglas A. Applegate, counsel for respondent. Cause
 ordered submitted.
 Justice McGuiness took his place on the bench and Justice Pollak left the
 bench.
- A096742 Friends of WestHaven and Trinidad
 v.
 County of Humboldt, et al.,
 Cause called and argued by William Verick, counsel for appellant, and
 Richard Davis Hendry counsel for respondent County of Humboldt arguing
 via-teleconference and Richard Anthony Smith, counsel for respondent,
 Michael Moss arguing via-tele-conference. Cause ordered submitted.
- A098485 Te Jung Chang
 v.
 Justin Schwartz,
 Cause called and argued by Te Jung Chang counsel in pro-per arguing via
 teleconference and Justin Schwartz, counsel in pro per. Cause ordered
 submitted.

A096814 C.J.A. Corporation,

A096846 v.

Transaction Financial Corporation, et al.,

Cause called and argued by Henry S. David, counsel for appellant, and Kyle Gardner Bach, counsel for respondent. Cause ordered submitted.

Thursday, March 27, 2003 (continued)

Division Four

A097348 -- The People v. Gina Marie Apodaca.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A099215 -- Early Anthony Bowling, Inc. v. Corrie Development Corporation; Dublin Land company et al.

The order is reversed. The parties shall bear their respective costs of appeal. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A100099 -- City of Half Moon Bay et al. v. The Superior Court of San Mateo County; Joyce Yamagiwa, as Trustee, etc., R.P.I.

The Court: Order Modifying Opinion, Denying Rehearing and Denying Request for Depublication. The opinion filed herein on February 28, 2003, is ordered modified as follows: (See order.) There is no change in the judgment. Kay, P.J. (Certified for Publication.)

A098046 -- The People v. Terry Eugene Palmer.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A099165 -- The People v. Michael Edward Jansen.

The judgment of conviction is affirmed as to the count III, driving on a suspended or revoked license, and is otherwise reversed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, March 28, 2003

Division One

A098762 -- The People v. Kenneth Crowley.

The judgment is reversed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

A100062 -- Roger Fitzgerald et al. v. Webcor Builders et al.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A098338 -- The People v. Alan Stuart Thompson.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

A097548, A098105 -- In re the Marriage of Donald and Donna Iverson.

The Order After Hearing on Motion to Pay Attorney's Fee Award Directly to Attorney, filed November 13, 2001, is affirmed. The Further Order on Reserved Issues, filed January 11, 2002, is affirmed insofar as it awards attorney fees directly to Donna. Kay, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A095612 -- Meta-Care, Inc. v. Department of Health Services.

By the Court: The petition for rehearing is denied. Kline, P.J.

Friday, March 28, 2003 (continued)

Division Three

A098485 -- Te Jung Chang v. Justin Schwartz.

The postjudgment orders and judgment imposing costs of \$409 are affirmed, and Chang is ordered to pay sanction of \$1500 to the clerk of this court. Chang shall bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A098833 -- In re Michael H., Jr., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Michael H.

The order terminating appellant's parental rights is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A097724 -- The People v. Jerry Lee Hill.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A098476 -- Donald C. Marro et al. v. William J. Ziegler et al.

The dismissal is affirmed. Ziegler shall recover its costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

A099081 -- In re Kaitlynn R., et al., Persons Coming Under the Juvenile Court Law. Contra Costa Department of Social Services v. Frank H., et al.

The June 7, 2002, orders terminating parental rights are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A096866 -- In re Kaitlynn R., et al., Persons Coming Under the Juvenile Court Law. Contra Costa Department of Social Services v. Frank H.

The appeal is dismissed. Respondent's motion to dismiss the appeal is denied as moot. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Friday, March 28, 2003 (continued)

Division Four

A092551 -- Bernie Chavers et al. v. Gatke Corporation.

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Certified for Publication.)

A093413 -- Augusta Ferris et al. v. Gatke Corporation.

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Kline, P.J., Rivera, J. (Not for Publication.)

A096725 -- Kenneth Hirsch v. Bank of America, N.A.

A096726 -- Norman E. Taylor et al. v. Union Bank of California, N.A.

A096727 -- Thelma Baker v. Wells Fargo Bank, N.A.

A096728 -- Jessica B. Siegel v. Imperial Bank.

We affirm in part and reverse in part. Parties to bear their own costs on appeal. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Certified for Publication.)

Division Five

A097616 -- The People v. Quincy Culpepper.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

